

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

May 13, 2011

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

OAHU

Consent to Mortgage and Extension of Lease Term, General Lease No. S-4008,
Walter & Evelyn Chong Trust, Lessee, Waimanalo, Koolauloko, Oahu, Tax Map
Key: (1) 4-1-027:014.

APPLICANT AND REQUEST:

Consent to Mortgage from Hawaii USA Federal Credit Union, Mortgagee, to Walter &
Evelyn Chong Trust, in an amount not to exceed \$ 50,000.00.

For Mortgagor to qualify for this mortgage, Mortgagee requires an extension of General
Lease No. S-4008 for an additional ten (10) years, commencing on September 12, 2011
and expiring on September 11, 2021. The aggregate term (initial term plus all extensions)
will amount to the statutory maximum of 55 years.

LEGAL REFERENCE:

Sections 171-22 and 36(b), Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands situated at Waimanalo, Koolauloko, Oahu, identified by
Tax Map Key: (1) 4-1-027:014, as shown on the attached map labeled Exhibit A.

AREA:

20.395 acres, more or less.

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act
DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: No

CHARACTER OF USE:

General agriculture purposes, which shall mean the production of truck, orchard, flower and nursery crops, and the pasturing, breeding, training and caring for livestock, except swine, sheep and goats.

TERM OF LEASE:

Original term of 20 years, commencing on September 12, 1966 and expiring on September 11, 1986.

In 1985, the Board approved a 25-year extension of the lease expiring on September 11, 2011.

Current request is to extend another ten (10) years commencing on September 12, 2011 and expiring on September 11, 2021.

ANNUAL RENTAL:

Current rent is \$9,930.00, due in quarterly installments of \$2,482.50 on the 11th day of March, June, September, and December of each year.

RENTAL REOPENINGS:

Past reopenings were on September 1996 and 2006. The last rental reopening occurred on September 11, 2006.

Reopenings for the extended term shall be on May 13, 2011 (immediate reopening) for the period from May 13, 2011 to September 11, 2021.

USE OF LOAN PROCEEDS:

The Lessee, by its letter attached as Exhibit B, intends to use the proceeds to repair the barns, the dwelling, and a horse observation structure, and the internal driveway. In addition, part of the loan proceeds will also be used to rehabilitate the pasture uses, including vegetation control and planting of pangola grass.

DCCA VERIFICATION:

Not applicable.

APPLICANT REQUIREMENTS:

Applicant shall be required to pay for an appraisal for the immediate rental reopening.

REMARKS:

The subject lease was sold at an auction in 1966 for an original term of 20 years. In 1985, the lease was extended for another 25 years expiring in September 2011. Mr. & Mrs. Walter Chong were the original lessees since 1966 until they assigned the lease to their trust in 1992.

The Lessee intends to use the loan proceeds to repair the improvement on the premises, as itemized above in the Loan Proceeds Section. Therefore, the Lessee needs to obtain a loan to finance those improvements and the mortgagee requires the subject lease to be extended for 10 years as a condition of the mortgage. Recent site inspection indicates that some stables and barns are on the premises. The Lessee plans to bring more pasture activities to the premises upon the extension of the lease.

There was a Notice of Default (NOD) for rent issued to the Lessee in 2007, but it was rectified in a timely manner.

On June 13, 2008, D-7, the Board deferred the effective date of the forfeiture request for 30 days to allow the parties to return to the Board with recommendation, if any, for addressing the Lessee's concerns about the arbitration process. A petition for contested case hearing was filed by the Lessee, but the Department of the Attorney General concluded that the Lessee were not entitled to the contested case hearing.

On September 26, 2008, item D-11, the request for forfeiture of the subject lease was brought back to the Board because the original 30-day period authorized by the Board in June 2008 action expired. Noting the outstanding amount of rent was paid and accepted by the Department prior to the September 2008 meeting, the Board denied the staff's recommendation for forfeiture.

Currently, there are no lease compliance issues under the subject lease since the Lessee complies with the terms and conditions of the lease, including rent and liability insurance. The Board waived the requirement for performance bond in 1995 based on the Lessee's continuous faithful observance and performance of all the terms, covenants, and conditions of the subject lease. Overall, the State parcel has been used for the purpose pursuant to the lease.

During discussion with the staff, the Department of Agriculture (DOA) indicates no objection to the request. Other than DOA, staff did not solicit comments from other agencies as the proposed use is not different from the current use.

There are no other pertinent concerns or issues and staff does not have any objection to the request.

RECOMMENDATION:

That the Board, subject to the Applicant fulfilling the Applicant requirement listed above:

1. Consent to the mortgage between Walter & Evelyn Chong Trust, Mortgagor, and Hawaii USA Federal Credit Union, Mortgagee, subject to the following:
 - A. The loan proceeds shall be used solely for the operations or improvements of the leased premises as identified in the "Use of Loan Proceeds" section above. The Lessee shall maintain records of loan expenditures which may be inspected by the Department;
 - B. The standard terms and conditions of the most current consent to mortgage form, as may be amended from time to time;
 - C. Review and approval by the Department of the Attorney General; and
 - D. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
2. Authorize the extension of General Lease No. S-4008 under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current lease extension form, as may be amended from time to time;
 - B. Review and approval by the Department of the Attorney General; and
 - C. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

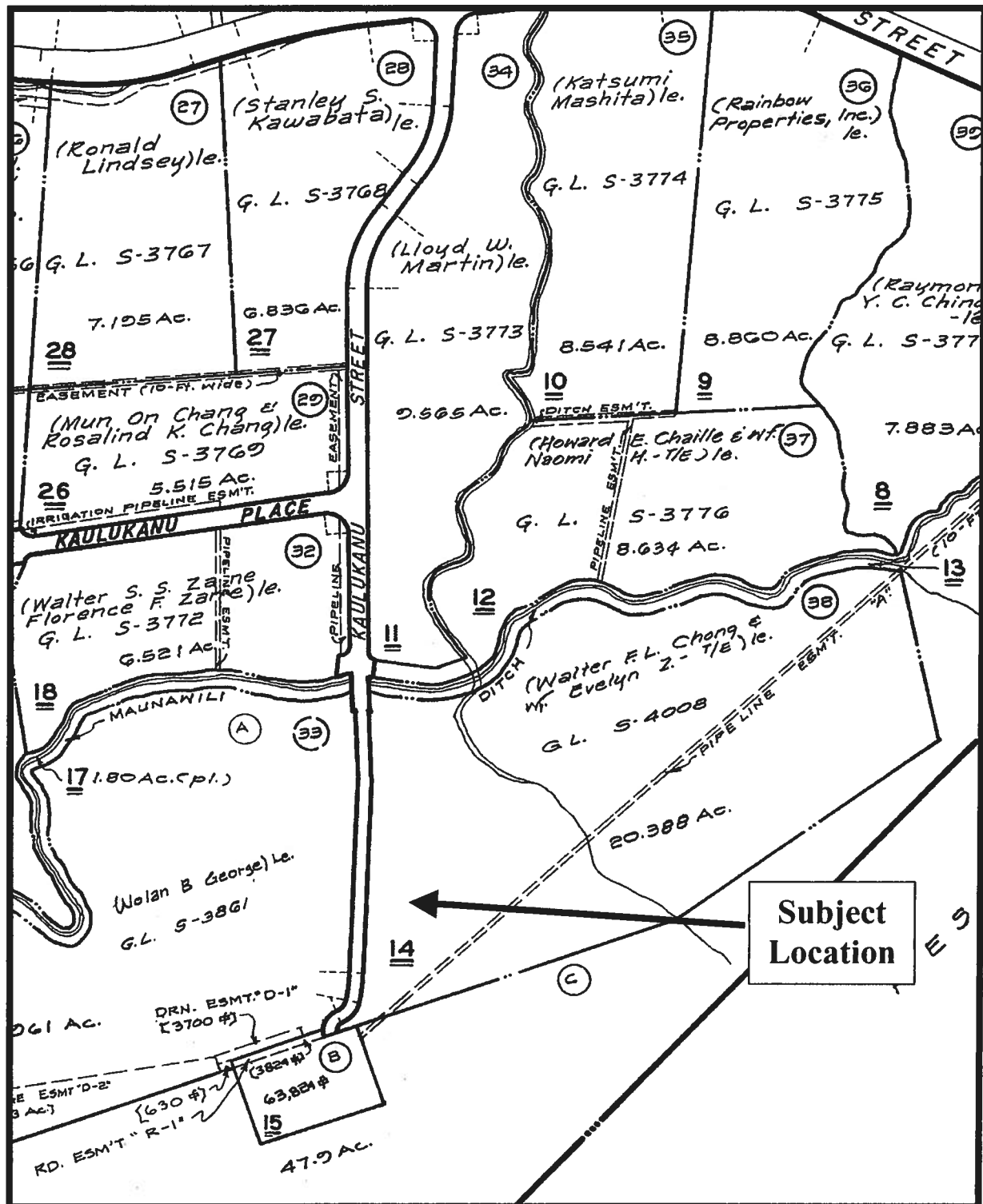
Respectfully Submitted,



Barry Cheung
District Land Agent

APPROVED FOR SUBMITTAL:


William J. Aila, Jr., Chairperson



TMK (1) 4-1-027:014

EXHIBIT A

Waimanalo, HI 96795

TO: Central
FROM: OOW

No.: GLS-4008

RECEIVED
LAND DIVISION

2011 MAR 28 AM 11:00

DEPT. OF LAND &
NATURAL RESOURCES
STATE OF HAWAII

March 24, 2011

Dear Barry,

Thank you for coming to the farm - Arnuene Ceres on Tuesday, March 22, 2011.

Here are items of work to show how the loan money will be used:

- 1) Repairs to Barns #1 and #2; including structural work, rust treatment, repainting, and electrical work. \$15,000
- 2) Restore road including grading, stream crossing, concrete repairs. \$5,000.
- 3) Repairs to house garage and horse observation structure - including interior and exterior painting; electrical and plumbing work. \$25,000.
- 4) Rehabilitate pastures - including cutting of trees, weed and brush removal, replanting pangola grass. \$5,000

Sincerely,

Jettie Chong
Enelyn Chong

EXHIBIT "B"